

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Improving Public Safety Communications)	WT Docket 02-55
in the 800 MHz Band)	

To: The Commission

**PETITION FOR CLARIFICATION OF
THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.**

The Association for Maximum Service Television, Inc. (“MSTV”) hereby requests that the Commission clarify that the *Report and Order* in the *800 MHz Public Safety* proceeding contemplates that Sprint Nextel Corp. (“Nextel”) will relocate Broadcast Auxiliary Service (“BAS”) equipment licensed to television translator stations,¹ and that Nextel will receive credit for such relocation in the “true-up” process.² Despite the July 2004 *Report and Order*’s explanation that Nextel “is obligated to participate in the relocation of all BAS operations from 1990-2025 MHz,”³ certain statements in the Commission’s October 2005 *Memorandum Opinion and Order* (“*MO&O*”) have raised confusion in the industry as to whether this category of BAS facilities will be relocated to the new band plan.⁴ By alleviating

¹ See *Improving Public Safety Communications in the 800 MHz Band*, Report and Order, 19 FCC Rcd 14969 (2004) (“*Nextel Report and Order*”).

² Under the “true-up” process, Sprint Nextel will pay to the U.S. Treasury the difference between the value of the replacement spectrum it obtained in this proceeding and the various credits it will receive for the costs it incurs to satisfy its obligations under the *Report and Order*. *Id.* at 15131 ¶ 353.

³ *Id.* at 15096 ¶ 252.

⁴ See *Improving Public Safety Communications in the 800 MHz Band*, Memorandum Opinion and Order, 20 FCC Rcd. 16015 (2005) (“*Nextel MO&O*”).

this uncertainty, the requested clarification will facilitate a timely BAS transition and ensure that access to local television services in rural and underserved communities is not disrupted by the BAS relocation process.

Translator Relay Stations are Critical to Unserved and Underserved Communities

As the Commission has recognized, “Television translators have provided a valuable service in delivering television programming to locations where the signals of TV broadcast stations cannot be directly received due to distance or terrain obstructions.”⁵ Today, TV translators provide millions of viewers in otherwise unserved or underserved areas access to free, over-the-air television services.⁶

In filling in such gaps in coverage within a full-power station’s service area, translator relay stations often serve as the crucial link between the full-power station and the translator. Placed on a high area with a line of sight to the full-power station, translator relay stations, which are BAS stations,⁷ receive the full-power station’s signal, “translate” it to a different frequency, and then rebroadcast that signal into the otherwise unserved area.

Under the Commission’s rules, if the relay station is licensed by the full-power “mother” station, it is considered a “primary” BAS license. In some instances, however, the relay station is licensed to the TV translator itself, generally because the translator licensee (*e.g.*, a county government) is different from the licensee of the mother station. In such instances, the

⁵ *Amendment of Parts 73 and 74 of the Commission’s Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations*, 18 FCC Rcd 18365, 18369 ¶ 9 (2003).

⁶ See Charles W. Rhodes, *Not Everything is “Lost in Translation”*, TV Technology, June 22, 2005, available at http://www.tvtechnology.com/features/digital_tv/f_Rhodes-06.22.05.shtml (last visited Jan. 25, 2006).

⁷ See 47 C.F.R. § 74.601(d).

relay station is considered “secondary.”⁸ Of course, local television services made possible by translator relay stations are no less important to viewers simply because the TV translator receives the broadcaster’s signal via a “secondary” translator relay station.

The BAS Relocation Process Should Encompass Translator Relay Stations

Given the Commission’s declaration that a “primary goal” of the BAS transition is “to ensure ... the minimum possible disruption to BAS operations,”⁹ the broadcast industry has long understood that Nextel’s relocation of BAS facilities would encompass translator relay stations. The Commission has expressly defined “BAS” to include translator relay stations,¹⁰ and the Joint Proposed BAS Relocation Plan, jointly submitted by Nextel, MSTV and the National Association of Broadcasters (“NAB”) in May 2004, makes clear that no category of affected BAS equipment will be excluded:

Under this plan, Nextel would commit to funding the entire cost of relocating all BAS incumbent nationwide from the 1990-2025 MHz band, subject to Nextel’s being assigned replacement spectrum in the 1910-1915/1990-1995 MHz band and receiving full credit for its contributions to the BAS relocation costs in the pending 800 MHz Public Safety proceeding.¹¹

In the July 2004 *Report and Order* which adopted the Nextel/MSTV/NAB relocation plan, the Commission confirmed that “all” 2 GHz BAS facilities were to be relocated to the new band plan.¹² The only exception was to be equipment for which BAS licenses were

⁸ See 47 C.F.R. § 74.602(f).

⁹ See *Amendment of Section 2.106 of the Commission’s Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service*, 15 FCC Rcd 12315, 12330 ¶ 42 (2000).

¹⁰ See *Nextel Report and Order*, 19 FCC Rcd at 15499 ¶ 55 n.144. See also 47 C.F.R. § 74.601(d).

¹¹ Joint Proposed BAS Relocation Plan, WT Docket No. 02-55, at 1-2 (filed May 3, 2004).

¹² *Nextel Report and Order*, 19 FCC Rcd at 15096 ¶ 252.

issued after June 27, 2000. These licenses were issued with the express condition that they were “secondary” and “will not be eligible for relocation by any [Mobile Satellite Services] entity.”¹³ The July 2004 Order did not indicate, however, whether Nextel would be credited if it was to relocate such licensees to the new band plan. This omission created uncertainty as to how to proceed in relocating such licensees, and accordingly MSTV, NAB, and Nextel filed a request for clarification.¹⁴

Taking up that request in its October 2005 *Memorandum Opinion & Order*, the Commission reiterated that no MSS entity would be obligated to relocate secondary BAS equipment (including equipment licensed after June 27, 2000), citing the “well established principle,”¹⁵ as developed by the Commission’s *Emerging Technologies* proceeding,¹⁶ “that secondary licensees are not entitled to relocation or reimbursement.”¹⁷ The Commission agreed, however, that even though these BAS licenses were secondary, the “public interest is best served by Nextel’s timely clearing of all incumbent operations in the 1990-2025 MHz band, which in turn will facilitate the timely transition of the 800 MHz band,” and accordingly held that it “will allow Nextel to claim credit for the costs to relocate secondary BAS incumbents licensed before November 22, 2004.”¹⁸ This clarification underscored the unique nature of the Nextel BAS relocation process, which, as part of the comprehensive solution to public safety interference

¹³ See *Nextel MO&O*, 20 FCC Rcd. 16015 at ¶ 105 n. 292.

¹⁴ See MSTV/NAB/Nextel Request for Declaratory Ruling, WT Docket No. 02-55 (filed June 20, 2005).

¹⁵ *Nextel MO&O*, 20 FCC Rcd. 16015 at ¶ 107.

¹⁶ See, e.g., *Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies*, 7 FCC Rcd 6886 (1992).

¹⁷ *Nextel MO&O*, 20 FCC Rcd. 16015 at ¶ 107.

¹⁸ *Id.*

concerns in the 800 MHz band may be informed by the *Emerging Technologies* principles but need not be strictly bound by them.¹⁹

While MSTV applauds the Commission's decision, additional clarity is needed to ensure that translator relay stations are not excluded from the Nextel BAS transition process. Just as the Commission clarified that Nextel can claim credit for relocation of secondary BAS licenses issued after June 27, 2000, it should clarify that Nextel can claim credit for relocation of translator relay stations that are licensed to TV translators, even though they are "secondary." Without such clarification, translator relay stations licensed to TV translators may not be relocated to the new band plan. Such an outcome will harm principally rural, unserved and underserved communities which rely on these "secondary" translator relay stations for access to local television services, including local news, weather and emergency information.

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¹⁹ See *Nextel Report and Order*, 19 FCC Rcd at 14971 ¶ 1, quoting 47 U.S.C. § 151 ("In reaching our decisions herein, we are fulfilling the Commission's obligation to "promote safety of life and property through the use of wire and radio communication"). In adopting the Nextel BAS relocation plan, the Commission noted merely that the plan was "sufficiently similar" to the earlier MSS relocation plan that was designed in strict conformity with the *Emerging Technologies* principles. *Id.* at 15095 ¶ 252. It is noteworthy that the Commission did *not* require the Nextel BAS relocation plan to directly follow those principles.

To ensure that unserved and underserved rural communities do not lose access to local television services, MSTV respectfully requests that the Commission clarify that Nextel will receive credit for relocation of BAS facilities licensed to TV translator stations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. L. Donovan", written over a horizontal line.

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